

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES**

**Call to Order:** By **CHAIRMAN CHRISTINE KAUFMANN**, on February 8,  
2005 at 8:05 A.M., in Room 102 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Christine Kaufmann, Chairman (D)  
Sen. Dan Weinberg, Vice Chairman (D)  
Sen. John Cobb (R)  
Rep. Joey Jayne (D)  
Sen. Greg Lind (D)  
Rep. Penny Morgan (R)

**Members Excused:** Rep. Walter McNutt (R)

**Members Absent:** None.

**Staff Present:** Pat Gervais, Legislative Branch  
Laura Good, Committee Secretary  
Lois Steinbeck, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: Operations and Technology Division,  
Public Health and Safety Division  
Executive Action: Operations and Technology Division,  
Fiscal Services Division,  
Director's Office

**CHAIR REP. CHRISTINE KAUFMANN, HD 81, HELENA,** opened the hearing on the Operations and Technology Division.

**Mr. Mike Billings, Administrator, Operations and Technology Division (OTD),** provided the Committee with an OTD Overview.

**EXHIBIT(jhh31a01)**

**Mr. Billings** began with Page 1, OTD Organization and FTE Allocation, then directed the Committee to Page 5, Current Systems and Interfaces. He moved to Page 9, Montana Access Program (Electronic Benefits Transfer - EBT); Page 10, Montana Access - EBT, Advantages to Human Beings; Page 11, Recipients of Montana Access Program (EBT); Page 12, Montana Access Program (EBT) Transactions.

***{Tape: 1; Side: A; Approx. Time Counter: 25.9}***

At the request of **SEN. DAN WEINBERG, SD 2, WHITEFISH, Mr. Billings** noted which systems are operated by contractors and explained that most contracting companies are based outside of Montana, but required by their contracts to conduct Montana business within Montana.

**Mr. Billings** went on to discuss how fee negotiation enters into the contract process.

Responding to a question from **SEN. JOHN COBB, SD 9, AUGUSTA, Mr. Billings** reported that the Combined Healthcare Information and Medicaid Eligibility System (CHIMES) is under construction and will be implemented within two years. He also stated that the division anticipates significant changes necessary for the Medicaid Management Information System (MMIS).

**SEN. COBB** asked how OTD pays for such initiatives.

***{Tape: 1; Side: B}***

**Mr. Billings** discussed OTD cost containment measures.

**Ms. Gervais** asked Mr. Billings to answer earlier Committee questions about Current Procedural Terminology (CPT) codes and magnetic (mag) cards for Medicaid-eligible individuals.

**Mr. Billings** showed the Committee a Montana Access to Healthcare Medicaid eligibility card. He confirmed that if the State took over Children's Health Insurance Program (CHIP) administration, it could implement use of such cards within the CHIP population.

Responding to a question from Committee staff, **Mr. Billings** suggested that **Mr. Darren Steiner, Project Manager, OTD**, offer an answer.

*{Tape: 1; Side: B; Approx. Time Counter: 3.7}*

**Ms. Steinbeck** provided background information about mental health provider contentions and frustrations regarding CPT codes.

**Mr. Steiner** described the Medicaid Management information system and the Medicaid payment system. He discussed usage and implementation of CPT and other codes within the MMIS system. He also confirmed that the program is designed to catch inappropriate code usage, but clarified that OTD can only apply code regulations and changes at the request of DPHHS divisions.

**Mr. Billings** noted that OTD will soon make available secure online access to Medicaid patient medical history, for use by providers.

*{Tape: 1; Side: B; Approx. Time Counter: 13}*

**SEN. WEINBERG** asked if pharmaceutical companies would have access to this information, as well.

**Mr. Billings** stated that pharmaceutical companies will not have access to individual health histories.

Responding to follow-up questions from **SEN. WEINBERG, Mr. Steiner** stated that pharmaceutical companies do not have access to direct client information. He noted that pharmaceutical companies have access to Data Niche, to which all states submit "de-identified" data regarding pharmaceutical claims, in order to aid states in dealing with questions regarding such claims.

**SEN. WEINBERG** asked if pharmaceutical companies have access to an individual doctor's prescribing practices.

**Mr. Steiner** presumed that if pharmaceutical companies do have such access, it is not provided through OTD systems. He agreed to research this issue and report back to the Committee.

*{Tape: 1; Side: B; Approx. Time Counter: 19.3}*

**EXECUTIVE ACTION ON OPERATIONS AND TECHNOLOGY DIVISION**

**Ms. Gervais** noted OTD Legislative Fiscal Division (LFD) issues on Page B-121 of the Budget Analysis, discussing possible Executive

Action regarding the decision to move the budget management function from the OTD to the Director's Office.

**Motion/Vote:** SEN. WEINBERG moved TO REFLECT IN HB 2 MOVING OF THE BUDGET AND PROGRAM ANALYSIS UNIT FROM OTD TO THE DIRECTOR'S OFFICE. Motion carried unanimously by voice vote. REP. MCNUTT and SEN. LIND voted by proxy.

**Motion/Vote:** REP. MORGAN moved that OTD DP 9999 - STATEWIDE FULL-TIME EQUIVALENT (FTE) REDUCTION BE ADOPTED. Motion carried unanimously by voice vote. REP. MCNUTT and SEN. LIND voted by proxy.

**Motion:** SEN. COBB moved to INCLUDE REPORTING LANGUAGE IN HB 2 REGARDING THE MONTANA ACCESS EBT MAG CARD.

**Discussion:**

Responding to questions from SEN. WEINBERG, Mr. Billings stated that such language is acceptable to the department, as long as it is consistent with Committee and legislative protocol.

REP. JAYNE asked if it was truly necessary to insert such reporting language into HB 2.

Ms. Gervais told the Committee that language not included in statute or in HB 2 cannot be enforced for reporting information.

**Vote:** Motion carried 6-1 by voice vote with REP. JAYNE voting no. REP. MCNUTT and SEN. LIND voted by proxy.

**EXECUTIVE ACTION ON FISCAL SERVICES DIVISION**

Ms. Gervais directed the Committee to the Fiscal Services Division (FSD) Adjustment table on Page B-83 in the Budget Analysis, noting that a large portion of the division's Present Law Adjustment cost increases is related to Statewide Accounting Budgeting and Human Resource System (SABHRS) costs.

*{Tape: 1; Side: B; Approx. Time Counter: 28.3}*

**Motion/Vote:** REP. MORGAN moved that FSD DP 9999 BE ADOPTED. Motion carried 6-1 by voice vote with SEN. COBB voting no. REP. MCNUTT voted by proxy.

**HEARING: DIRECTOR'S OFFICE**

**Ms. Steinbeck** provided and discussed two handouts.

**EXHIBIT**(jhh31a02)

**EXHIBIT**(jhh31a03)

*{Tape: 2; Side: A}*

At the request of **REP. PENNY MORGAN, HD 57, BILLINGS, Dr. Robert Wynia, Director, Department of Public Health and Human Services (DPHHS)**, provided a rationale for the Governor's proposed second DPHHS Deputy Director.

**Mr. Chappuis** emphasized that the new position was a modified FTE initiated by the Governor's Office and funded through the Cost Allocation System, by which each division in DPHHS contributes a portion of the position cost. He noted that the \$100,000 salary note is an estimate, as the Deputy Director pay grade stands at approximately \$70,000 and benefits would add approximately \$20,000 to the salary package.

When asked by **REP. MORGAN** if he felt the new position was necessary, **Mr. Chappuis** reiterated his support for the Governor's proposals, this position being among them. He expressed that personally, he does not feel this position is necessary.

**REP. MORGAN** directed the Committee to a handout detailing DPHHS Director's Office Total Position Funding.

**EXHIBIT**(jhh31a04)

*{Tape: 2; Side: A; Approx. Time Counter: 7}*

She followed up by asking the Department why it spends nearly half of a million dollars each year on lawyers' salaries.

**Mr. Chappuis** stated that DPHHS lawyers are needed to handle an extensive caseload and constant lawsuit threats, including work on rule hearings, policy changes, and lawsuits such as the Travis D. and Montana Association for Independent Disabilities Services (MAIDS) cases. He also compared their rates to private sector lawyers' rates, noting that DPHHS lawyers receive significantly lower salaries.

*{Tape: 2; Side: A; Approx. Time Counter: 10.3}*

**Ms. Steinbeck** explained Executive constitutional authority to hire and fire, and contrasted it with Legislative constitutional authority to fund or not to fund Executive-created positions.

**Mr. Bob Andersen, Office of Budget and Program Planning (OBPP)**, offered his perspective on reasons to support the position in question.

**SEN. WEINBERG** voiced his objection to the position, and asked if the Committee has any sway regarding the creation of this position.

**Mr. Andersen** promised to bring the Committee's concerns about the second Deputy Director position to the Governor's Budget Director. He expressed the administration's commitment to implementing the position.

**SEN. WEINBERG** requested further information on the position and the staffing process.

**Mr. Andersen** readily agreed to gather and report on such information.

**{Tape: 2; Side: A; Approx. Time Counter: 17.4 - Tape: 2; Side: B; Approx. Time Counter: 4.5}**

Responding to **SEN. WEINBERG**'s follow-up questions regarding the role of a second Deputy Director, **Mr. Chappuis** stated that as proposed, the second Deputy Director's work would include jurisdiction over Child and Family Services Division (CFSD) and Child Support Enforcement Division (CSED) consumer concerns and complaints, whose large volume currently requires a great deal of time and attention from himself and Dr. Wynia.

**{Tape: 2; Side: B}**

**SEN. COBB** offered a brief history of the DPHHS Deputy Director position.

**{Tape: 2; Side: B; Approx. Time Counter: 5.6}**

**REP. MORGAN** directed the Committee and the Department to Page B-69 in the Budget Analysis, asking why the Director's Office budget includes a \$20 million increase for Fiscal Year (FY) 2007.

**Mr. Chappuis** stated that the \$20 million is related to the Health Insurance Flexibility Act (HIFA) waiver for refinancing of the Mental Health Services Program (MHSP). He discussed complex

interaction of I-149 monies and federal monies in the funding of MHSP refinancing, and subsequent expansion of insurance for CHIP, Seriously Emotionally Disturbed (SED) children, and parents of Medicaid-eligible children. **Mr. Chappuis** also explained why related funds are allocated to the Director's Office, and how budget change notes will siphon appropriated funds to specific divisions.

**{Tape: 2; Side: B; Approx. Time Counter: 18.6}**

**Ms. Steinbeck** informed the Committee that their predecessors have delegated in statute such instances of broad-funding authority on the part of DPHHS administration. She also discussed the legality of DPHHS' authority to draw money for the second Deputy Director position from DPHHS divisions, noting the definition and usage of the HIFA waiver.

**Mr. Chappuis** also noted the legality of staffing and funding issues at hand. Responding to **SEN. WEINBERG**, **Mr. Chappuis** described the mechanisms by which discretionary general fund could be transferred to the Developmental Disabilities (DD) program. He also went on to state that the MHSP special revenues funds have already been appropriated to MHSP programs, and that the Department follows legislative intent in shifting such funds only in rare and extremely necessary cases.

**{Tape: 2; Side: B; Approx. Time Counter: 31.1}**

**Ms. Gervais** noted differences in administration of programs within the division, as concerns eligibility, entitlement and use of waiting lists.

**{Tape: 3; Side: A}**

**Ms. Gervais** stated that divisions within DPHHS often implement waiting list components in varying ways, which can lead to skewed understandings of the entire scope of consumer needs.

**Mr. Chappuis** described the role of waivers in expanding DD services.

**CHAIR KAUFMANN** summarized for members reasons why the Committee should not characterize MHSP monies as discretionary funds.

Referring to Ms. Gervais' recent comment, **Ms. Steinbeck** noted that there is no accurate way to measure unmet need across DPHHS, and suggested ways that the Committee might right this situation.

**REP. JOEY JAYNE, HD 15, ARLEE**, expressed her hope that the Governor would select a current DPHHS staff member to fill the proposed second Deputy Director position.

**{Tape: 2; Side: B; Approx. Time Counter: 5.2}**

**Ms. Steinbeck** went on to provide a layman's explanation of cost allocation, and noted that the federal government must approve a department's cost allocation plan. She also discussed LFD issues related to cost allocation.

Responding to **REP. MORGAN, Mr. Chappuis** stated that cost allocation priorities regarding expenditure of MHSP refinancing monies are determined by both HIFA waiver requirements and consumer needs as expressed to DPHHS.

**Mr. Hal Harper, Chief Policy Advisory to Governor Schweitzer**, provided details of the Governor's rationale for creation of a second DPHHS Deputy Director position. He also expressed that the Governor is interested in splitting DPHHS into two separate departments, and that the Governor's Counsel on Efficiency has received \$400,000 to research the issue.

**{Tape: 2; Side: B; Approx. Time Counter: 13.4}**

**Mr. Mick Robinson, Administrator, Fiscal Services Division (FSD)**, stated that the Director's Office cost-allocation mechanism is based on Full-Time Equivalents (FTEs) and includes components to safeguard against manipulation by the Director's Office itself.

**SEN. LIND** briefly exited the meeting.

#### **EXECUTIVE ACTION ON DIRECTOR'S OFFICE**

**{Tape: 2; Side: B; Approx. Time Counter: 16.6}**

At the request of **REP. MORGAN, Ms. Steinbeck** reviewed LFD issues specific to the Prevention and Resource Council (PRC).

**Ms. Vicky Turner, Manager, PRC**, discussed PRC's relationship with Volunteers in Service to America (VISTA), noting the role of and funding for Montana's VISTA program. She stated that without State funding for PRC's VISTA administration costs, PRC will need to close its doors.

**Motion/Vote:** **REP. KAUFMANN** moved that **DIRECTOR'S OFFICE DP 3401 - PRC ADMINISTRATIVE COSTS BE ADOPTED**. Motion carried unanimously by voice vote. **REP. MCNUTT** and **SEN. LIND** voted by proxy.

**Motion/Vote:** REP. KAUFMANN moved that the Committee REDUCE THE DIRECTOR'S OFFICE GENERAL FUND REQUEST BY \$25,400. Motion passed unanimously by voice vote. REP. MCNUTT and SEN. LIND voted by proxy.

**Motion/Vote:** REP. MORGAN moved that DIRECTOR'S OFFICE DP 9999 - BE ADOPTED. Motion carried 5-2 by voice vote with SEN. COBB and REP. JAYNE voting no. REP. MCNUTT and SEN. LIND voted by proxy.

*{Tape: 3; Side: B}*

Following a brief break, **Ms. Steinbeck** provided and discussed information regarding effects of the Bush Administration's cuts to Medicaid and Health and Human Services provisions in the President's 2006 Budget.

**SEN. LIND** returned to the meeting following the break.

[EXHIBIT\(jhh31a05\)](#)

[EXHIBIT\(jhh31a06\)](#)

**Mr. Chappuis** interjected comments as appropriate.

*{Tape: 3; Side: B; Approx. Time Counter: 21}*

**Ms. Gervais** provided and discussed several documents.

[EXHIBIT\(jhh31a07\)](#)

[EXHIBIT\(jhh31a08\)](#)

[EXHIBIT\(jhh31a09\)](#)

*{Tape: 3; Side: B; Approx. Time Counter: 30.5}*

**Mr. Chappuis** expanded on his comments regarding Exhibit 6.

Responding to **SEN. COBB**, **Mr. Chappuis** agreed to provide further information regarding projected shortfalls due to loss of IGT's, including those affecting targeted case management funds, hospital tax funds, provider tax funds, and others. He emphasized that true shortfalls will not be realized until almost a year's time.

**HEARING: PUBLIC HEALTH AND SAFETY DIVISION**

***{Tape: 4; Side: A; Approx. Time Counter: 14.3}***

**Ms. Steinbeck** noted LFD issues related to the Public Health and Safety Division (PHSD).

**Ms. Jane Smilie, Administrator, Public Health and Safety Division (PHSD)**, provided the Committee with a PHSD Overview.

**EXHIBIT(jhh31a10)**

**Ms. Smilie** began with Page 1, Slide 2, PHSD Key Contacts; Page 2, Slides 3 & 4, Page 3 Slide 5, PHSD Goals, Responsibilities, Delivery and Federal Partnerships; Page 3, Slide 6, PHSD Scope of System and Public health System Partners; Page 4, Slide 7, Montana 2003 Leading Cause of Death; Pages 4 through 7, Slides 8 through 13, 2002-03 Montana Adult and Youth Risk Behavior Surveys Regarding Healthy People 2010 Leading Health Indicators; Page 7, Slide 14, Montana's Health Ranking 2004; Page 8, Slide 15, PHSD organizational structure and offers; Page 8, Slide 16, PHSD Proposed 2007 Biennium funding; Page 9, Slide 17, PHSD Overview of DP's; Page 9, Slide 19, PHSD Major Issues; Page 10, Slide 20, Total Proposed Annual Tobacco Use Prevention Funding; Page 20, Slide 20, Legislative Fiscal Division (LFD) Issue Regarding Libby Asbestos Program Staff; Page 21, Slide 21, Department-Sponsored Legislation: SB 137, Licensure of Tattoo and Body-Piercing Businesses.

**Ms. Jo Ann Dotson, Chief, Family and Community Health Bureau (FCH)**, briefed the Committee on her bureau's work. She began with Page 39 and 40, Slides 39-41, FCH Bureau Activities and Funding Sources.

***{Tape: 4; Side: B}***

She then referred the Committee to the blue section, Pages 8 through 10, FCH Performance Indicators, Target Population Served; Map: Local Maternal Child Health Services. **Ms. Dotson** returned to Page 21, Slide 41, FCH Funding Sources; Page 21, slide 42, FCH Proposed Biennium Funding; Page 22, Slide 43, Increase Funding for Women, Infants and Children (WIC) DP 185 and Page B-105 in the Budget Analysis; Page 22, Slide 44, LFD Issue - WIC, Page B-104; Page 23, Slide 24, Early Childhood Comprehensive System (ECCS) DP 160, Page B-104; Page 23, Slide 46, LFD issue - ECCS, Page B-104; Page 24, Slide 47, Montana Initiative for the Abatement of Mortality in Infants (MIAMI) DP 3007, Page B-24 (DP 7, Page B-107 withdrawn). **Ms. Dotson** also directed the Committee

to Pages 11-15 in the blue portion of the packet, for more information on MIAMI.

***{Tape: 4; Side: B; Approx. Time Counter: 14.4}***

**SEN. WEINBERG** requested that PHSD return tomorrow with more information on unintended pregnancy reduction efforts in the Whitefish region. **SEN. WEINBERG** also asked for more discussion on the Developmental Disability incident management policy, system, and oversight reporting requirements for providers.

**Mr. Chappuis** agreed to return tomorrow with information regarding **SEN. WEINBERG's** latter request.

**ADJOURNMENT**

Adjournment: 12:05 P.M.

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REP. CHRISTINE KAUFMANN, Chairman

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LAURA GOOD, Secretary

CK/lg

Additional Exhibits:

**EXHIBIT ([jhh31aad0.PDF](#))**